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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,121	06/26/2003	Meir Rosenberg	022719-0040	5583

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EXAMINER

DEAK, LESLIE R

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TALN

Office Action Summary

Application No.

10/607,121

Applicant(s)

ROSENBERG, MEIR

Examiner

Leslie R. Deak

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,810,761 to Saens-Arrollo. Saens-Arrollo discloses a pressure controlled cranial shunt comprising a body made of domes 2 and 7 with an inlet (generally at 4), outlet (unlabeled, left side) and a valve or pressure control device with a bellows-shaped biocompatible elastomeric biasing element C with opposing disks G and H. The valve further comprises an annular ring I that serves as a blocking element to block fluid flow through the device. The biasing member or bellows is connected to the valve as a whole by threaded cap B which has perforations D and L, allowing fluid flow through the valve into the chamber (see FIGS).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3761

4. Claims 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,810,761 to Saens-Arrollo. Saens-Arrollo discloses the device as claimed with the exception of a second flexible bellows acting in parallel with the single bellows. In the instant case, the second bellows does not appear to cause a different mode of operation of the claimed invention, and is therefore a mere duplication of the working parts of a device found in the prior art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a second bellows, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. See MPEP § 2144.04 .

With regard to applicant's claims drawn to the contents of the biasing element or bellows, Saens-Arrollo does not disclose that the bellows is manufactured in a vacuum, indicating that the bellows, under normal circumstances, contains normal atmospheric inert air within. Therefore, the Saens-Arrollo device has a biasing element filled with a fluidic inert gas.

With regard to applicant's claims drawn to a ball-shaped valve and a spherical valve seat, such ball valves are well-known in the art. It would have been a matter of obvious design choice to use a ball valve with appropriately-shaped valve seat, since applicant has not disclosed that the particular shape of the claimed valve solves any stated problem or is for any particular purpose, and it appears that the invention would perform equally well with a flat valve.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. US 4,610,658 Buchwald et al
 - i. Shunt with adjustable bellows flow control
- b. US 6,264,625 Rubenstein et al
 - ii. Shunt with adjustable valve and bellows

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie R. Deak whose telephone number is 571-272-4943. The examiner can normally be reached on M-F 7:30-5:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lrd 
5 August 2005

TATYANA ZALUKAEVA
PRIMARY EXAMINER

